

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND

968 Franklin Manor, LLC
606 S. Casey Key Road
Nokomis, Florida 34275,

Plaintiff,
v.

C-02-CV-20-001045

Case No.: _____

Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401,

Serve On:
Anne Arundel County
Office of Law
2660 Riva Road, 4th Floor
Annapolis, Maryland 21401

and

Steven Kall-Ziegler
Director
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401,

Serve On:
Anne Arundel County
Office of Law
2660 Riva Road, 4th Floor
Annapolis, Maryland 21401

and

Kelly Krinetz
Planning Administrator
Anne Arundel County
Office of Planning and Zoning
2664 Riva Road
Annapolis, Maryland 21401,

SOUZA ROY

2543 Housley Road

Annapolis, MD 21401

(410) 571-8366

Serve On:
Anne Arundel County
Office of Law
2660 Riva Road, 4th Floor
Annapolis, Maryland 21401

and

Steuart Pittman
County Executive
Anne Arundel County
44 Calvert Street
Annapolis, Maryland 21401

Defendant.

COMPLAINT TO QUIET TITLE

COMES NOW the Plaintiff, 968 Franklin Manor, LLC, through counsel, Dominic Souza, Esquire, Justin S. Dunbar, Esquire and SOUZA ROY ATTORNEYS, and files this **COMPLAINT TO QUIET TITLE** in the instant action, and as grounds therefore states as follows:

I. JURISDICTION AND VENUE

1. This matter arises out of a dispute over real property located in Anne Arundel County, Maryland.
2. Plaintiff, 968 Franklin Manor, LLC, owns real property located at 968 Franklin Manor Road, Churchton, Anne Arundel County, Maryland.
3. Defendant, Anne Arundel County Office of Planning and Zoning, is located in Anne Arundel County, Maryland and is the government agency tasked with the regular business of planning, zoning and land use for Anne Arundel County, Maryland.
4. Defendants, Steven Kaiii-Ziegler and Kelly Krinetz, are currently employed by the Anne Arundel County Office of Planning and Zoning, and carry on a regular business of the administration of planning, zoning and land use for Anne Arundel County, Maryland.
5. Defendant, Steuart Pittman, is currently employed as the County Executive of Anne Arundel County, which carries on the regular business of the administration of County agencies.

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6. Jurisdiction and Venue are proper and is claimed before the Circuit Court for Anne Arundel County, Maryland pursuant to Md. Code Ann., Real Property Art., § 14-108.

II. FACTUAL BACKGROUND

7. Plaintiff, 968 Franklin Manor, LLC, owns real property located at 968 Franklin Manor Road, Churchton, Anne Arundel County, Maryland, as is more particularly described by a deed, dated November 15, 2011, recorded in the land records for Anne Arundel County. A copy of the deed is attached hereto as Exhibit A.

8. On January 12, 2005, the predecessor-in-interest to Plaintiff, Jewell Crandell, Trustee for the Crandell Family Trust and the Crandell Living Trust (hereinafter "Crandell"), granted a conservation easement to Anne Arundel County for the subject real property (hereinafter "Conservation Easement"). The Conservation Easement is recorded in the land records of Anne Arundel County and attached hereto as Exhibit B.

9. At the time, the Conservation Easement was granted pursuant to a planned development project for proposed senior housing known as Crandell Cove, with a related grading permit issued by Anne Arundel County Department of Inspections and Permits issued on May 6, 2005.

10. Subsequently, the Crandell Cove project became insolvent and the land was transferred to Plaintiff pursuant to deed attached as Exhibit A.

11. The grading permit was cancelled by Plaintiff.

12. No work was ever performed on the project and the land was never developed.

13. The Conservation Easement states in pertinent part:

"WHEREAS, the creation of the conservation easement will benefit the citizens of County and, therefore, the **Developer** desires to grant the County the right to enforce the covenants, conditions and restrictions for the conservation easement established under this Declaration."
(emphasis added)

14. Further, Anne Arundel County has the right under the Conservation Easement to terminate the easement and its interests in in the property.

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15. Plaintiff has made multiple requests of Defendants, in their capacity as representatives of Anne Arundel County, to terminate the Conservation Easement, pursuant to its own terms as the planned development project was abandoned, the grading permit cancelled, and the bond associated with the permit released by the County.

16. Based on these circumstances, the purpose for the granted easement was terminated and Anne Arundel County has given no consideration for the Conservation Easement.

17. To date, Defendants have refused to terminate the Conservation Easement.

18. The presence of the Conservation Easement in title searches has impeded certain attempts by Plaintiff to sell the property, has significantly reduced the property's value and otherwise prevents Plaintiff from its rightful ownership of the land.

19. There is no valid purpose for the Conservation Easement, or any restrictions on the property granted in favor of Anne Arundel County under these circumstances, as the land is adequately protected by County and State regulations.

20. Defendants' actions in this matter amount to the unlawful taking of Plaintiff's property without just compensation and have caused Plaintiff substantial damages.

COUNT I
(Quiet Title)

21. Plaintiff incorporates the facts as stated in Paragraphs 1 through 20 as if fully and completely stated herein.

22. Plaintiff makes this claim pursuant to Md. Code Ann., Real Property Art., § 14-108(a), which states in pertinent part:

"Any person in actual peaceable possession of property, or if the property is vacant and unoccupied, in constructive and peaceable possession of it,...when his title to the property is denied or disputed, or when another person claims, of record or otherwise to own the property, or any part of it, or to hold any lien encumbrance on it, regardless of whether or not the hostile outstanding claim is being actively asserted,...the person may maintain a suit in equity in the county where the property lies to quiet or remove any cloud from the title, or determine any adverse claim."

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23. Under the plain terms of the Conservation Easement, the easement was granted for purposes of developing the property.

24. The development project did not occur yet Defendants maintain a Conservation Easement on Plaintiff's real property for which no consideration was given.

25. Defendants, neither individually nor on behalf of Anne Arundel County, possess any valid claim or right to Plaintiff's real property.

26. Based on the forgoing, Plaintiff is entitled to the termination of the Conservation Easement to remove any cloud from its title to the property.

COUNT II
(Unlawful Taking)

27. Plaintiff incorporates the facts as stated in Paragraphs 1 through 26 as if fully and completely stated herein.

28. Both the 5th Amendment to the United States Constitution and Article III of the Maryland Constitution prohibit the government taking private property without just compensation.

29. Under the plain terms of the Conservation Easement, the easement was granted for purposes of developing the property.

30. The development project did not occur yet Defendants maintain a Conservation Easement on Plaintiff's real property for which no consideration was given.

31. Defendants, as State Agencies and Public Officials, in maintaining the Conservation Easement without giving any consideration thereto, have taken Plaintiff's property without just compensation.

32. Plaintiff has suffered significant monetary damages, including but not limited to lost proceeds of the sale of the property, decrease in value of the property, tax assessments

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improperly charged as fee simple, carrying costs and other damages as a result of the Defendants unlawful conduct.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests the following relief:

- a. That the Court issue an Order to Quiet Title stating that Anne Arundel County has no interest in the real property located at 968 Franklin Manor Road, Churchton, Maryland; and
- b. That the Court issue an Order terminating the Conservation Easement granted to Anne Arundel County on January 12, 2005; and
- c. That the Court issue an Order terminating any and all recorded agreements between Plaintiff and Anne Arundel County and restrictions granted in favor of Anne Arundel County in connection with the development of the subject property; and
- d. That the Court award damages to Plaintiff in excess of \$75,000 against Defendants Anne Arundel County Office of Planning and Zoning, Steven Kaiii-Ziegler, Kelly Krinetz and Steuart Pittman, jointly and severally, both individually and in their capacity as representatives of Anne Arundel County.
- e. That the Defendants be required to pay the Plaintiff's reasonable counsel fees, suit monies and costs of these proceedings; and
- f. That the Plaintiff be awarded such other and further relief as the nature of its cause may require.

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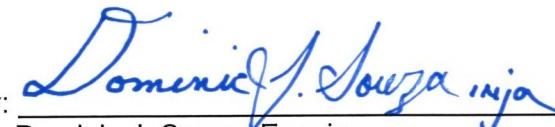
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Respectfully submitted,

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By:


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